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First name: Lisa

Last name: Treichel

Organization: US Department Of the Interior

Title: Biologist/Forester

Comments: Note to Reader:

BLM finalized their definitions and rules that apply to use of e-bikes on DOI lands (NPS, BLM, BOR, and FWS) on October 2, 2020. The Forest Service has a Federal register proposed Rulemaking that is doing the same thing at a similar time, but DOI got out ahead of USFS leaving some inconsistencies between DOI and current USFS language. This letter describes those inconsistencies and focuses on changes that have impacts to users and includes embedded links to referenced documents and Executive Orders. Entire text copies below- Attachment shows digital signature

ER20/0408

Mr. Ben Johnson

Acting Director

Recreation Staff

1400 Independence Avenue SW

Washington, DC 20250-1124

Subject: USFS Manual 7700 Travel Management; Chapter 7700, Zero Code; Chapter 7710

Travel Planning - update and clarify guidance on management of electric bicycles

Dear Mr. Johnson:

The Department of the Interior (the Department) has reviewed the proposed U.S. Forest Service Manual updates and would like to offer the following comments from our Bureau of Land Management (BLM) regarding differences in agency approach to managing E-bikes on government lands. FSM 7700 Proposed Changes: Zero Code - Incorporates new definitions for "bicycle," "electric bicycle (e-bike)," "Class 1 e-bike," "Class 2 e-bike," and "Class 3 e-bike" to facilitate designation of these three classes of e-bikes on National Forest System (NFS) trails, on NFS roads, and in areas on NFS lands.

The Department has identified by section areas where there are differences between the USFS' proposed directives and the regulatory direction taken in the BLM's recently finalized e-bike rule. For this discussion, the term Off-highway vehicle (OHV) includes All-terrain Vehicles (ATVs), Off-highway Motorcycles (OHMs), and Off-road Vehicles (ORVs).

#### Specific Comments

Under Section 7705, USFS' proposed definition is inconsistent with the definition adopted by four bureaus within the Department (Bureau of Land Management, Fish and Wildlife Service, Bureau of Reclamation, and the National Park Service) in two respects. First, the USFS definition applies only to two-wheeled bikes, whereas the Departmental definition includes both two- and three-wheeled bikes. This inconsistency could cause confusion, especially on trails that cross from DOI managed land onto USFS-managed land. Second, the USFS definition is limited to bikes with motors less than 750 watts. The DOI definition includes bikes with motors not more than 750 watts. The Department requests that USFS adopt the "not more than" approach.

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For 7711.3 - 6, g. Trails Open to E-Bikes Only: The proposed change to the USFS directives is inconsistent with the regulatory direction taken in the BLM's recently finalized e-bike rule. The BLM's rule created a process by which e-bikes can be excluded from the definition of OHV and allowed on trails that are open to traditional bikes without applying the minimization criteria set forth in Executive Order 11644 Use of off-road vehicles on the public lands and incorporated into 43 C.F.R. 8342.1 Designation Criteria. The BLM rule is predicated on the idea that there are situations in which EO 11644 should not apply to e-bikes, even though they are technically

motorized vehicles. Under the USFS' proposed directives, e-bikes will continue to be regulated as motorized vehicles (which are basically synonymous with OHVs under the BLM regs). In order to allow an e-bike on a trail that is not already open non-motorized vehicles, the USFS would have to apply the minimization criteria. The BLM does not believe that application of the minimization criteria to e-bikes is necessary in all situations and believes that the disparate approach could cause confusion among public land users.

For 7715.5 - Criteria 3, Specific Criterion for Trails: The BLM recommends addition of the following language: "Authorized officers will consider whether any applicable statutory or regulatory provisions, such as the National Trails System Act, either prohibit or otherwise make e-bike use inappropriate on certain roads and trails."

Thank you for the opportunity to comment on the e-bike definitions. If you have any technical questions related to these comments or require clarifications, please contact Cory Roegner, BLM's Deputy Division Chief, Division of Recreation & Visitor Services, at (385) 258-0496.

Sincerely  
Stephen G. Tryon  
Director, Office of Environmental Policy  
and Compliance